

# **RENT CONTROLS:**

## **WHY WE NEED THEM**

## **WHAT KIND? HOW LONG?**

### **A BACKGROUND ANALYSIS**

BY

Social Planning Council of  
Metropolitan Toronto

October 1975

RENT CONTROLS:  
Why We Need Them.  
What Kind? How Long?  
A Background Analysis

by

Community Review and Research Group\*  
Social Planning Council of Metropolitan Toronto

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## PREFACE AND ACKNOWLEDGEMENTS

Two facts which make the subject of rent controls a difficult one to deal with became very apparent to the researchers during work on this paper. One was the deficiency in information which governments and other agencies have collected on rents and the rental market in Metropolitan Toronto. The other was the tremendous complexity of the subject. The complexity we had to live with and become familiar with. The lack of information (especially a valid and substantial Toronto rent survey) we have attempted to fill by combining the best available data from all possible governmental and non-governmental sources.

Despite the paucity of the information it is still apparent to us that rent controls are a desirable policy option at this time. The researchers did not start with that opinion, and rather, have come to the conclusions found herein on the basis of the evidence obtained regarding the historical rise of rent controls in Canada and elsewhere. Nor does the report mean to imply that all landlords are taking advantage of the present housing shortage situation. Some are, perhaps many, and it is to curb these that rent control is needed. We think that those responsible landlords who have not been demanding exorbitant increases will be able to continue their operations under a rent control scheme such as we have proposed without detriment.

Social Planning Council views the rent controls issue as a developmental one. Much more needs to be known regarding rents and related housing conditions, and it seems safe to predict that the rent controls issue will be with us for some time. This statement should not be read as a final statement on the issues therefore, since further research can be expected on issues such as costs, and since any new program implemented by the Provincial Government will undoubtedly warrant further analysis, especially to better assess its probable or actual effects.

The researchers wish to acknowledge the assistance of: Mr. John Burkus and Mr. Pat Laverty of the Ontario Ministry of Housing, for discussing the issues and sharing some information with us; Mrs. June Rowlands, Research Director for the Ontario Liberal Caucus; the Federation of Metro Tenants' Associations, for making the results of their rental survey available to us; Alderman Dorothy Thomas, for discussing the issues and reading an early draft; Mr. David Kennedy of the Ontario Welfare Council whose comments and criticisms of a draft were most helpful. The analysis and conclusions are those of the researchers and the Social Planning Council and do not necessarily reflect the opinions of these persons who have talked with us. The authors would also like to thank the board members of the Social Planning Council, whose astute and helpful comments greatly improved this paper.

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### SUMMARY

Most urban centres in Canada today experience a severe housing shortage. Housing starts have fallen. The past several years have seen fantastic increases in the value of all housing. Rents have increased at higher and higher rates, and many cases of unreasonable increases or "gouging" have been reported. Metropolitan Toronto has experienced this housing crisis more intensely perhaps than other centres, with tighter and tighter vacancy rates, a growing gap between what housing is needed and what is built, a tremendous increase in homelessness among families.

In the past several years the private housing industry has failed dramatically to meet the housing needs of Torontonians and other urban Canadians, and especially those on low or fixed incomes. This failure provides both the major historical antecedent to the "rent control debate" and a major consideration in weighing the benefits and risks of rent controls.

Not surprisingly, the current housing crisis has led to a major confrontation in Metropolitan Toronto (and other centres as well) on the issue of rent control. In the last year this issue has been closely fought between tenants' organizations on the one hand and the powerful rental housing and development industry on the other in Metropolitan Toronto.

Spokesmen for the rental industry's major landlords have made many claims about the effects of rent controls in other cities and countries. Many of the claims of the development industry relate to "horror stories" of urban decay, bureaucratic jungles, etc. Others, not spokesmen for landlords, point out major errors in the interpretation of these "horror stories". Tenants' organizations report fantastic cases of rent gouging -- rents going up 40 percent, 50 percent or more. Yet others argue that most rent increases are modest especially in light of overall inflation. Who should the average citizen believe?

Most people in Toronto and other urban areas are undoubtedly puzzled by the hard questions about rent control:

- How fast are rents rising?
- How badly are rent controls needed?
- What are rent controls? What are the options?
- Will rent controls in themselves solve the rental housing problem?
- Will rent controls stop the construction of new rental housing?
- Will rent controls produce urban blight and decay?
- Are rent controls generally speaking a wise policy choice in Metropolitan Toronto today?
- If we need rent controls, what kind of rent controls should be implemented?
- How long should rent controls be expected to last?

Recognizing that a housing shortage and thus the rent control issue will be before us for some years, and recognizing the partisan interest of most of those making the case for or against rent controls, the Social Planning Council has produced this background analysis of the rent and rent control issues. It represents a thorough review of existing materials on rent control -- the theory and the practice in places where it has been implemented. It reaches several major conclusions, among them:

- that the major evils of rent control outlined by opponents (especially the rental housing and development industries) tend to be overstatements or distortions of experiences elsewhere. In many cases rent controls are blamed for problems that would have occurred even without rent controls.
- rent controls can not be blamed for urban blight or decay in large American cities such as New York.
- rent controls at the present time represent a very desirable policy option in Metropolitan Toronto and probably for most other large Canadian urban centres.

- rent controls should be applied through rent review boards operated at the regional municipality level (in Toronto this means Metro Toronto) or, (in the event that there is no regional government), at the municipal level.
- rent controls must be introduced in conjunction with the strongest sort of reinforcement of tenants' rights, especially protection from eviction or termination of leases without cause.
- rent controls must be introduced in conjunction with the strongest possible efforts to stimulate the rental housing market, and especially to create a dramatic expansion in the supply of non-profit and public low-income housing.
- the present implementation of federal wage and price controls creates a good environment for stronger rent controls than would have been considered before October 1975.
- any rent controls introduced now relying on an across-the-board increase should be regarded as interim, since such a formula may have inequities for some landlords, until an equitable formula can be found to replace an across-the-board rate of increase.
- because intense speculation in housing over the past two years has driven many rents up sharply, and because of an apparently significant level of gouging, there should be a retroactive application of any rent control formula to January 1974, with an across-the-board retroactive ceiling no higher than 8 percent per annum. Onus should be on the landlord to justify any higher increases to the rent review board, and higher increases should be allowed only when justified by the landlords demonstration of higher costs.
- because the use of a flat percentage increase may pressure many rents to rise more quickly than they otherwise would, any attempt to use a flat percentage increase at this time, as an interim measure, should use a much lower rate of increase than the 10 percent proposed by the Government. In the short run, say six months starting October 1975, a ceiling of 4 percent per annum should be applied. Onus should be on the landlord to justify any higher increases to the rent review board and higher increases should be allowed only when justified by the landlords demonstration of higher costs.

- violations by landlords should bear extremely stiff penalties.
- in addition to rent controls, rent subsidies or other relief must be provided by the Province for tenants whose rents cause hardship even after rent controls are implemented.

Additionally, we note a number of other conclusions with respect to: the need for a broader and more sweeping review of and reform of tenants rights; the need for a strong public education campaign regarding any new rent control programs; a grants purchase-of-service system to make use of tenants' organizations in public education regarding rent controls; the need for an immediate and very strong research program on rents, landlord costs, and housing conditions to aid the development of maximally equitable rent control formula, and to aid "fine-tuning" of the rent control system.

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Finally, we look again at the bigger picture: housing. Rent controls do not necessarily stop housing development. Neither do they provide new housing. The question of how best to ensure adequate housing for all remains. How should people in Ontario and Canada as a whole view the failures of the private development and rental housing industries? Can the private housing industry, given incentives and encouragement, supply the need, or is much more direct governmental intervention necessary? Implementing a rent control system should not turn us from this more difficult debate.

## SECTION ONE: INTRODUCTION

### A. Rent Controls in a Crisis Housing Market

Toronto's deteriorating housing situation has been documented many times. The situation today is generally regarded as having reached crisis proportions, with rising costs and shrinking vacancies curtailing the ability of more and more families to find adequate accommodation for an affordable cost.

For those who cannot or do not wish to buy their own home, the position is acute. Vacancy rates have plummetted, new building is almost at a standstill and rent increases in the order of 30 to 50 per cent are increasingly reported. Conversion of rental to condominium units, and of family to adult-only buildings further restrict the options available to tenants. The response to this situation by tenants and many others interested in the housing scene has been a growing demand for the introduction of rent controls.

### B. What Is Meant by Rent Control?

The term 'rent control' arouses many reactions, depending in part on the meaning it has for the individual. The debate on the topic is complicated by the variety of meanings which can be understood. Every form of restraint or review from a complete freeze to a system that essentially lets the landlord do what he will can be encompassed. Thus, for example, the federal government's limited dividend scheme, in which a developer is loaned money at below-market rates in return for below-market rents, can be called a form of rent control. The concept is vague, but is usually narrowed by each individual to what he or she thinks is meant by the term.

Rent control is used throughout this paper to mean any form of rent regulation, restraint or review, from the most to the least stringent, without implying any particular position within that range.

### C. Rent Control and Tenant Security

Rent control cannot be discussed in a vacuum, without considering other questions pertaining to rental housing. Rent control must be considered in the light of the larger question of tenant security. The right of all Canadians to have access to good quality housing they can afford<sup>1</sup> has become a cliche, a "motherhood" statement with which few would argue. It is usually taken to mean the production of enough housing of varied types and costs that each Canadian household can obtain decent accommodation. But there is another aspect to the right of housing: the right of tenants to enjoy full possession of their homes (and stability in their domestic lives) for as long as they see fit.

Under the present system tenants occupy their premises under sufferance of the landlord, with very few curbs on evictions or other termination of tenancies. This is an intolerable position for tenants, with the possibility of having to seek new accommodation always before them. In 1971 the Bureau of Municipal Research asked, "Are our legislators prepared to allow a tenant to stay on as long as he wishes and to be removed only for cause? And at what rental?"<sup>2</sup> To date, our legislators have not been prepared to allow tenants this security. Rent control is obviously a key point in the issue of tenant security, and the present debate around rent control raises again that basic question, since rent controls require strong protections against unwarranted eviction or termination if they are to be effective.

### D. Some Questions

What do we and others mean by rent control? What is the rental

1. See, for example, The Right to Housing, Michael Wheeler (ed.), Harvest House, Montreal, 1969; Good Housing for Canadians, Ontario Association of Housing Authorities, 1964.
2. Bureau of Municipal Research, Landlord-Tenant Relationships, Time for Another Look. Toronto, Autumn, 1971.

housing situation in Metro Toronto which is calling forth demands for rent control? What are the arguments for and against rent control (and in what form have rent controls or constraints been adopted elsewhere)? What kind of rent control is needed in Metro Toronto? These are questions which must be examined before an informed position can be taken on the desirability and form of rent control in Metro Toronto.

Each issue is treated at some length in the remainder of this paper. Section Two deals with the current rental situation in Metro Toronto. Section Three examines arguments for and against rent control. In Section Four of the paper, some of the many possible features of rent control programs will be identified and their advantages and dangers noted. In Section Five of the paper, some conclusions are presented regarding the need for rent control, kinds of rent control needed, and related housing policy concerns.

SECTION TWO: HOW BAD IS THE RENTAL  
HOUSING SITUATION IN METRO TORONTO?

Even with the new generation of peacetime rent control legislation a crisis in housing has been seen as a necessary prerequisite for introduction of rent controls. A difficult housing market brings to the fore the fact that housing is a basic necessity. When the market fails to supply enough housing at an affordable cost, the position of tenants becomes severe. Providing tenants with some security becomes imperative. This is the context within which the discussion of rent control is taking place in Metropolitan Toronto.

A. Vacancy Rates

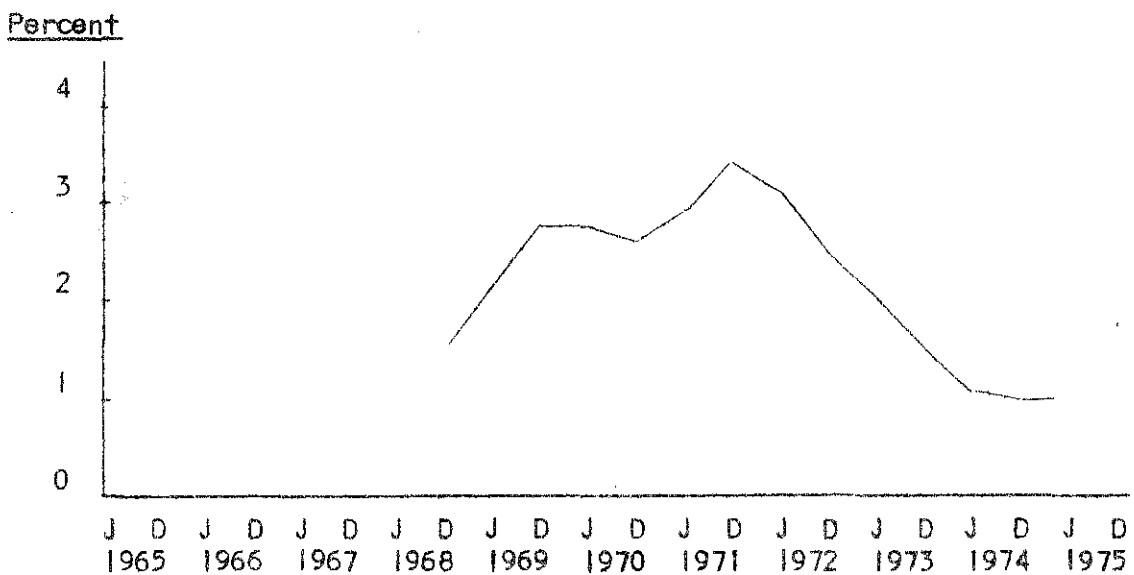
The situation in Toronto today is a dismal one for the tenant (particularly the low income tenant) seeking to find and hold accommodation. The vacancy rate in private apartments has been consistently below 4 per cent for the last seven years, and frequently below 2 per cent. (See Figure 1) While estimates vary (between 3 and 5 per cent) as to the cut-off point below which it is undesirable for the vacancy rate to fall, by most standards this is an unhealthy situation. Among its most injurious effects we see what appears to be a notable upswing in the incidence of doubling up and of homelessness among families.<sup>1</sup>

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I. A number of recent newspaper articles report families living in tents, and doubling up (one case with 17 people in one apartment). As of October 1975, Metro's Emergency Family Hostel reports that demand was greater and families are staying longer because of the housing crisis. In 1974, the Social Planning Council's study The Rent Race found temporary homelessness to be a major problem of Toronto's social assistance recipients.

Figure 1

Vacancy Rates In Privately Initiated Apartment Buildings of Six Units or Over - Municipality of Metropolitan Toronto



Source: Central Mortgage and Housing Corporation  
Apartment Vacancy Survey

B. Rents and Rent Increases

Low vacancy rates and high rents put tenants in an intolerable position, where they can neither hold their present accommodation nor find alternative housing they can afford. In 1974 Social Planning Council's study The Rent Race documented the extreme housing hardships of Toronto families on Social Assistance, especially the inadequacy of housing allowances in relation to high rents faced, and the very extreme sub-standard conditions of much of the housing studied. Yet similarly sound analysis of other renting groups, or of the Metro renter population as a whole have not been conducted.

Hard figures on rent and rent increases in Metro are impossible to find, and what is available must be treated with some degree of caution. We note three surveys which indicate something about rent changes. In a survey of a selected sample of Urban Development Institute apartments conducted by Metro Tenants Federation in the Summer, mean rental increases

over a one year period were found to be 14.2 per cent to 18.2 per cent. In a study conducted by students in a sample of North York buildings, average increases of 17 per cent were found. Ontario Ministry of Housing has conducted a survey of its own which reportedly shows average increases of 11.7 per cent. Each of the surveys of course must be regarded with some scepticism: the Ministry of Housing survey, by virtue of the secret nature of its method (the report is still unavailable) and the others by virtue of uncertain response rates.<sup>1</sup>

Still, these reports and the little more reliable material we do have would seem to indicate a sudden upsurge in rents over the past two years. Table 1 shows the average rent requested for vacant apartments of various sizes in the census metropolitan area<sup>2</sup> in December 1973 and 1974 and April 1975. This shows that the asking price for bachelor apartments had increased at an annual rate of 12.6 per cent in the 16 month period, that for one-bedroom apartments at an annual rate of 18.2 per cent, two-bedroom apartments at an annual rate of 28.3 per cent and three-bedroom apartments at an annual rate of 30.8 per cent. This does not mean that overall rents in Metro had risen by these percentages in this period, but taken with the figures in Table 2, showing the proportion of apartments in various rental ranges at these dates, it does indicate an increasing lack of availability of apartments in the lower price ranges.

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1. Generally, these surveys tend to have a low completion rate wherein large numbers of those approached do not respond and are excluded from the study, thus reducing reliability of results.
  2. Census Metropolitan Area comprises Metropolitan Toronto plus such surrounding municipalities as Markham, Pickering, Richmond Hill, Aurora, Mississauga, Oakville, etc.

Table 1

Asking Rents for Vacant Sample Units, Census  
Metropolitan Toronto Area (Privately Initiated  
Apartment Buildings of Six Units or More)

	Bachelor	1-bedroom	2-bedroom	3-bedroom
December 1973	149	173	207	258
" 1974	162	213	282	341
" 1975	174	215	285	364
Per cent annual rate of increase Dec. 1973 - Apr. 1975	12.6	18.2	28.3	30.8

Source: Central Mortgage & Housing Corporation: Apartment Vacancy Survey

Table 2

Rental Ranges of Vacant Sample Units, Census  
Metropolitan Toronto Area (Privately Initiated  
Apartment Buildings of Six Units or More)

	December 1973	December 1974	April 1975
<u>Bachelors</u>			
Per cent under \$150/mo.	48	22	19
Per cent \$150 - \$199	50	75	65
Per cent \$200 and over	3	3	15
<u>One bedroom</u>			
Per cent under \$180/mo.	72	13	11
Per cent \$180 - \$229	28	66	63
Per cent \$230 and over	3	20	27
<u>Two bedroom</u>			
Per cent under \$210	69	10	6
Per cent \$210 - \$259	24	39	42
Per cent \$260 and over	10	51	53
<u>Three bedroom</u>			
Per cent under \$270	71	18	5
Per cent \$270 - \$319	21	37	31
Per cent \$320 and over	9	45	66

Source: Central Mortgage & Housing Corporation: Apartment Vacancy Survey

8.

Further indications of a worsening rent situation are the number of phone calls received by such bodies as the Landlord and Tenant Advisory Bureau, and Metro Tenants Federation asking for help and advice in the face of impending large rent increases. Although in 1974 only 7 per cent of phone calls to the Landlord and Tenant Advisory Bureau were on the subject of rent increases, this is an increasing trend, and calls on this subject have more than tripled since 1971.<sup>1</sup> In the last four to five months most phone calls to Metro Tenants Federation have been on the subject of rent increases, whereas previously tenants had phoned with a variety of concerns.<sup>2</sup> For the first time, the Social Planning Council itself has also been receiving enquiries from concerned tenants on what comprises a "reasonable" rent increase.

We note then that rents generally, and for vacant apartments especially, seem to be going up at rates quite in excess of general inflation in 1974 and 1975. Yet it must be noted that not all rents are going up at a rapid rate. Different landlords raise rents in differing ways depending on differences in costs and efficiency, greed, obligation to tenants and perception of what the market will bear. This is illustrated by data from a survey of housing needs of the elderly conducted by the Social Planning Council in Spring of this year. This survey showed for example the following distribution of rent increases among a slightly specialized sample of elderly households<sup>3</sup> from January 1974 to January 1975.

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1. Report on the Landlord and Tenant Advisory Bureau to Social Services and Housing Committee from the Commissioner of Social Services, Metropolitan Toronto. April 17, 1975.
  2. Telephone conversation, 29 July, 1975.
  3. The sample was comprised of households that had experienced no membership change in 1974 and satisfied certain other requirements of a family expenditure survey.

Table 3

Some Rental Changes for a Sample  
of 81 Elderly Households\*

	Number of Cases	Per Cent
No Increase in 1974	26	32.1
Under 5%	13	16.0
5 - 10%	24	29.6
10 - 15%	11	13.6
15 - 20%	4	4.9
Over 20%	3	3.7

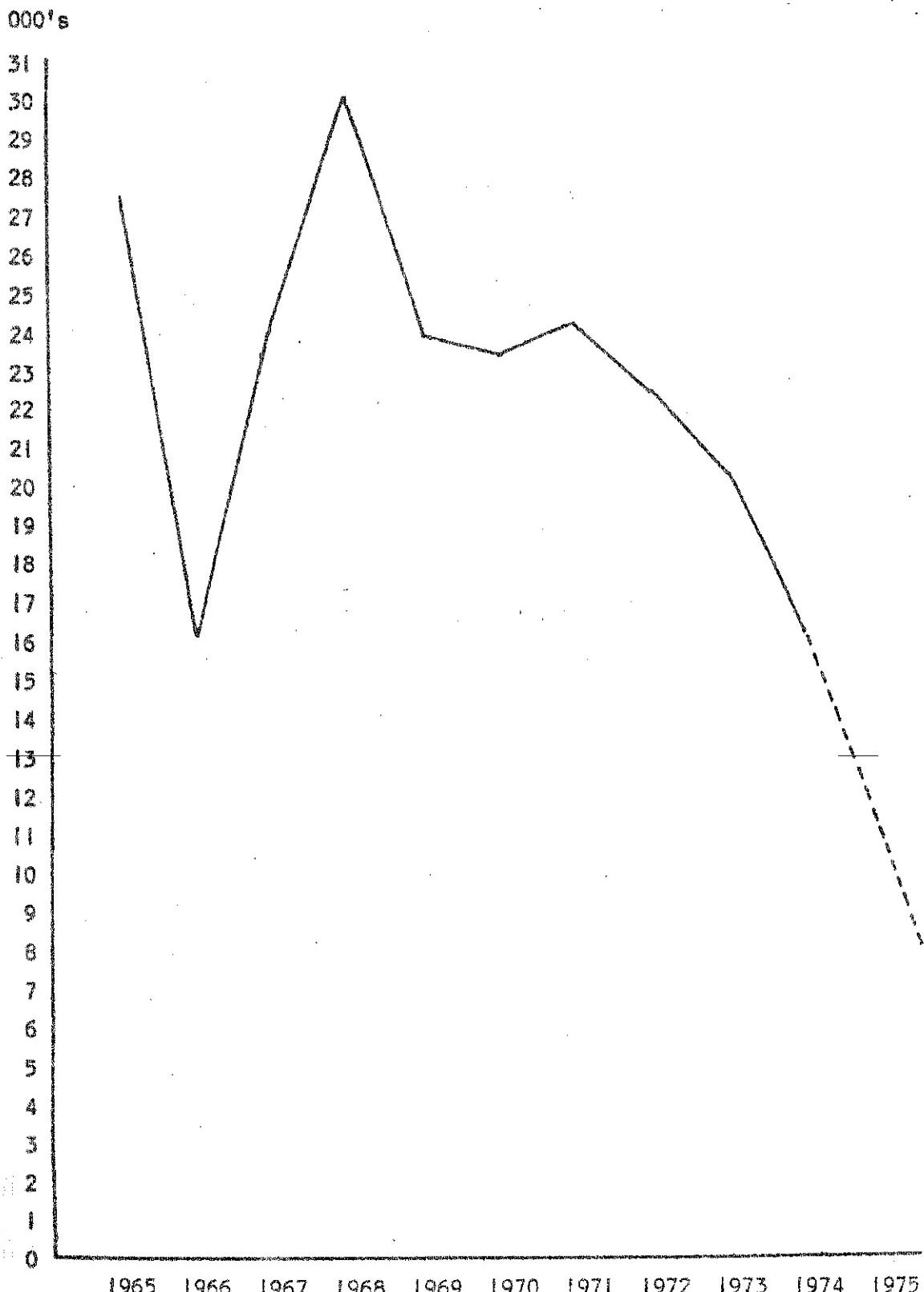
\*81 private market tenants in a sample of 300 elderly households

If the variation in rent increases is considerable, as evidence would lead us to expect, then we might note that there are dangers in a rent control system that sets a flat rate of increase: many landlords who have given lower increases in the past may suddenly decide to raise rents at the standard rate. Thus the maximum rental increase allowable under a flat rate system tends to become the minimum. Some tenants may be saved from gouging by such a system but others may face even higher rents.

C. Dwelling Starts and the Housing Shortage

Some relief from rising rents would be expected if a large supply of new units were to be made available in the near future. However, there is very little prospect of this in the Metro Toronto situation. Dwelling starts in the municipality have plummetted from a high of 30,182 in 1968 to a low of 16,272 in 1974 (see Figure 2). If starts for 1975 continue at the same rate as that for the first quarter, 1975 will see even fewer dwelling starts - somewhere in the region of 8,000. All of this adds up to a housing shortage for Metro Toronto of many tens

Figure 2

Dwelling StartsMunicipality of Metropolitan Toronto

Source: Central Mortgage and Housing Corporation

## II.

of thousands of housing units, since Metro population is thought to be growing by about 25,000 households per year, and in light of a longer term historical shortage of considerable magnitude.<sup>1</sup>

It is clear that under present circumstances little relief can be expected in the form of new building. Moreover, given the usual length of time from the initiation of new housing to its completion, it seems safe to project no significant change in numbers of starts for several years, and a likely worsening of the housing shortage. This suggests that even the most ambitious stimulation of the housing market, and even the most ambitious governmental housing program will probably leave a need for rent controls over at least a four to five year period.

### D. The Tenants and Probable Hardship Patterns

In discussing the rental housing situation, it is useful to know who are the tenants of Toronto. Who are the people affected by the vagaries of the rental housing market? Are they a cross section of the population in general? Or groups that would suffer hardship in the face of high rent increases?

Here again, as with rent increases general patterns may be noted, but reliable up-to-date information is not readily available. The 1971 census shows that in the Metropolitan Toronto census area about half of all households are renters. The largest proportion of rental households had heads between the ages of 25 and 34 years. This age range contained 31.8 per cent of renting household heads, while a further 13.6 per cent were under 25 and 12.6 per cent were 65 and over. (See Table 4).

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1. Paterson Planning & Research, Housing Needs In the Metropolitan Toronto Planning Area, Toronto, 1969. The Paterson study identified a shortage of 59,000 units in 1966. Our estimates are that this has probably increased to well over 100,000 in 1975.

Table 4

Renting Household by Age of Household Head  
Census Metropolitan Area 1971

Age of Head	Number	Per cent
Under 25	49,930	13.6
25-34	110,985	31.8
35-44	62,380	17.9
45-54	48,865	13.1
55-64	38,075	10.9
65+	43,975	12.6
Total	349,210	100.0

Source: Statistics Canada

Unfortunately figures are not available on household size or income, but some very general inferences can be made from the age breakdown. In general the young and the old are at the lower end of the income scale, and earning ability reaches its peak about the mid-thirties.

The years 25 to 34 are also the major child-bearing years, when the young family tends to be expanding. Approximately three-fifths of tenants, therefore, are of an age when income is likely to be fixed or low relative to need and almost one third are likely to be young families starting out trying to care for young children, with diminishing prospects of achieving the common ideal and security of purchasing a home.

Information on the proportion of income spent on rent by tenants in Metropolitan Toronto is another useful indicator of hardship, with most experts in the area presently agreeing that a family ought not to pay more than 25 per cent of its income for shelter. Good information on this variable is as difficult to find as information on rents and rent increases, but there are indications that the situation is quite desperate for many people, particularly those in the low income

groups. The Social Planning Council, in a survey conducted in late 1973, early 1974 found that 57 per cent of social assistance recipients renting in the private sector in Metro Toronto paid between 25 and 50 per cent of their income for shelter, and a further 30 per cent paid over half. This is a very clear case of hardship in this group.

Two recent surveys done by the Federation of Metro Tenants' Associations and North York Tenants respectively also point in the direction of considerable hardship, particularly among low income tenants. Respondents in the Federation of Metro Tenants' Associations survey reported a mean proportion of income spent on rent of 30 per cent. Like most averages, this conceals a wide variation, with tenants earning less than \$4,000 per annum (13 per cent of the returns) calculating that they paid an average of 75 per cent of their income for rent, and those earning between \$4,000 and \$6,000 (14 per cent of returns) that they paid an average of 47 per cent. The North York survey reported that 19 per cent of respondents, a majority of whom were senior citizens or others on fixed incomes, paid more than half their incomes for rent, and that for 22 per cent rent took between one third and one half of their income. While it may not be possible to generalize safely from either of these surveys, it is obvious that a substantial number of tenants are under financial stress and therefore unable to cope with large rent increases without taking money away from such other need areas as food and clothing.

All of the data taken together, (the decline in housing starts, the numerous indicators of rapid rent escalation (especially for vacant rental housing), and the apparently very high portions of families' income going into shelter cost) points to the direst kind of rental housing situation. It is a situation in which the private housing market has failed miserably to meet the needs of Toronto, especially the needs of moderate and low income groups.

It is this failure that underlines the need for rent control, and it is in light of this failure that we must appraise the arguments for and against rent control.

### SECTION THREE: THE ARGUMENTS FOR AND AGAINST RENT CONTROL

#### A. The Arguments for Rent Control

##### Security of Tenure as an Argument for Rent Control

Security of tenure is inextricably entwined with the case for rent control. Proponents of tenant security argue that no person should lose his or her home without just cause and be subjected to the stress of searching for and moving into new accommodation. Causes for eviction or non-renewal of leases should be clearly defined and applicable to all rental accommodation throughout Metro. Unless tenants give cause as defined, they should be free to occupy their home for as long as they wish. Any measures in this direction however would be meaningless without some form of rent control so that tenure is seen as the right to keep renting in the same dwelling with reasonable or modest increases in rent as time goes by. Without rent control, no tenant is secure, and without security of tenure stable family life is all but impossible.

##### Social Justice and the Alleviation of Hardships

After safeguarding tenant security, the basic argument in favour of rent control is the need to protect tenants from unjust economic hardship. Rent control halts a massive drain of income from tenants. Many tenants already pay more for shelter than the generally accepted standard of 25 per cent of their income,<sup>1</sup> and in time of rapidly rising rents the problem becomes more acute.

Rent control can keep the costs of shelter from making excessive demands on tenants' budgets and prevent a higher incidence

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1. See, for example, The Rent Race, Social Planning Council of Metropolitan Toronto, 1974 and press accounts of the studies by North York Tenants and Federation of Metro Tenants Associations mentioned on pages 6, 12 and 13.

of tenants spending up to and over one half of their income on shelter. The benefits of this to low and fixed-income tenants are obvious. It would maintain their standard of living and give freedom from the incessant worry as to whether the next rent increase will force them to cut back on basic necessities.

#### Unearned Benefits

One of the major factors leading to rapidly increasing rents is the inflationary nature of the land market. A shortage of land combined with a high demand for competing uses leads to an ever-upward pressure on costs. In this situation whenever a property changes hands the new owner has substantially higher costs than the seller, costs which have to be recovered by higher revenues. The price paid is artificially high, driven up by the shortage and not by any intrinsic merit of the land. A rent control scheme can help counter this inflationary trend. The inflated prices reflect the unfortunate side effects of many public decisions and also the failure of the private rental market -- a failure that should not reflect to its benefit. A limit on the returns allowed will mean that land is a less attractive investment at unrealistically inflated prices, and will reduce the pressure towards selling or re-financing in order to realize capital gains.

Scarcity is not the only feature from which benefits accrue to the landlord in excess of his actual investment in the property. Property values increase in response to community investment also. Neighbourhood improvement, urban growth, public investment and action of many kinds serve to raise property values. With a limit on the amount of return a landlord can accumulate from these unearned benefits some of the benefits from public investment accrue to the residents of the community who usually benefit least -- the tenants.

It is apparent that rent control alone will do nothing to solve the basic situation. A shortage of accommodation and undesirably low vacancy rates can only be terminated by an infusion of new housing. Rent control in itself cannot procure security of tenure and relief from all consequences of a tight housing market, yet well designed rent control legislation can, especially if connected to solid legislation protecting tenants' rights, provide a major tool for achieving these goals.

B. The Arguments Against Rent Control

The arguments against rent control are many and varied. However, they fall into two main categories: predictions of detrimental consequences assumed to follow automatically from rent control, and complaints of the inefficiency and injustice of rent control.

Several key assumptions underlying the arguments against rent control do not hold water. These include: the assumption that the housing market is a free and uncontrolled market to begin with; the assumption that the rental housing market operates effectively to deal with community needs when left to itself. In fact, the housing market is intensively regulated on a number of dimensions already, in terms of interest rates, land uses, densities, housing standards and occupancy restrictions. In fact the rental housing market does not seem to be working to respond to community needs, and industry has failed dismally in recent years in meeting housing requirements of major sections of the community, especially low income groups, the elderly, and families with children.

Additionally, the case against rent controls has until now (October 1975) rested mostly on the assumption that rent controls cannot be fairly implemented in the absence of economy-wide wage and price controls. The recent federal moves to introduce general controls of course set this argument aside, and allow a much stronger case for strong rent controls than would have been possible up to now.

The uncertain validity of some of these assumptions is exceeded by the uncertainty of many of the dire predictions made about rent controls, by those who oppose them. In some cases there is a real concern that must be dealt with in the structuring of rent controls. But in most cases, these predictions represent a clear overstatement or distortion of experiences in other jurisdictions.

Argument against rent control #1: Rent Control Stops New Building

This argument rests on the assumption that rent control is the only factor which deters investment in rental housing. This is obviously too simple an assumption. There are many factors aside from anticipated rental revenue to be taken into account. Mortgage rates, tax shelter provisions, availability and cost of land, anticipated capital gains, municipal planning, all play a part. While rent control, where it is practised, may be a factor in discouraging new building, it is difficult to see it as an important factor when new construction is already so low without rent control.

In Metropolitan Toronto rental housing has become an unattractive investment for reasons other than rent control. Dwelling starts have been declining since 1969, (see Figure 2) long before rent control became an issue. It can be argued that if rents were allowed to climb high enough, the law of supply and demand would operate and new rental accommodation would be built. It is precisely this cyclical effect with its long time lags, which creates problems for tenants and which some form of rent regulation would help even out.

In other jurisdictions with rent control, new construction has not necessarily been reduced: Thus new construction has continued throughout 24 years of rent control in Quebec. Thus New York City experienced extensive over-building of rental housing in the 1960's, even though rental controls were in effect. And Ricketts, in a recent article in the Financial Post, pointed to a greater fall in apartment construction starts in Ontario than in the two controlled provinces, British Columbia and Quebec.<sup>1</sup>

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1. Ricketts "Rent Controls: How Well Do They Really Work?" Financial Post, August 30, 1975.

Argument Against Rent Control #2: Rent Control Leads to Building Abandonment

According to this argument, the small landlord, operating without room to maneuver financially and often at a loss, finds loss of revenue because of rent control the last straw, stops paying taxes on the building and finally abandons it. In recent months this has been pointed to by both the Urban Development Institute and the previous Minister of Housing, Donald Irvine, as the direct result of rent controls in New York City.

Yet tax delinquency and building abandonment is a phenomenon in many American cities, both with and without rent control, and many uncontrolled buildings in New York have also been abandoned. The Department of Housing and Urban Development in Washington reports that "our older metropolitan areas have been reported to be troubled by residential abandonment for several years." Of the six major cities for which estimates of large numbers of abandoned units are given, only one, New York City, is subject to rent controls.<sup>1</sup> And other cities with rent controls, such as New Haven, Connecticut and Cambridge, Massachusetts, are not noted for high rates of abandonment.<sup>2</sup>

Obviously other factors related to the decay of the centre of American cities and the deterioration of neighbourhoods would seem to be more relevant to this phenomenon than rent control itself such that the abandonment argument generally must be judged inadequate.

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1. Letter from Department of Housing and Urban Development, August 7, 1975.
  2. Ricketts, op. cit.

Argument Against Rent Control #3: Rent Control Leads to Building Deterioration

This argument states that when the landlord's net operating income is curtailed by rising operating costs without correspondingly rising rents, building repair and maintenance becomes the mechanism by which the net operating profit is adjusted. However, a rent control measure tied to operating costs would to a large degree remove this problem. Further, other measures such as allowing the tenant to repair and deduct from the rent, or allowing rent reductions for deteriorated property, would help ensure the standard of maintenance. This argument represents one of the more valid criticisms of rent control programs in other jurisdictions. Yet it may be difficult to generalize, since it connects to the somewhat uncertain abandonment arguments (see above), and since rent control formulae can be designed to encourage upkeep.

Argument Against Rent Control #4: Rent Control Leads to Under-Utilization of Housing and Lack of Mobility

It is easy to see that if some units are controlled and others not controlled, this could lead to less mobility and under-utilization of housing. However it was found in New York City that bad distribution of space was not significantly greater in controlled units than in uncontrolled units.<sup>1</sup> (In any event completely rational occupancy of housing stock is a dream in a system in which everyone is entitled to what they can afford to buy)

Mobility, also, is affected by factors other than rent control. In a situation of partial rent control, clearly tenants in controlled units will tend to remain in place. However, this tendency would be overcome if all units were controlled. Furthermore, the most

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1. Emily Paradise Achtenberg, "The Social Utility of Rent Control" in Housing Urban America; J. Pynoos, R. Schafer & C.W. Hartman (eds.): Aldine, Chicago, 1973.

Inhibiting factor in mobility is a lack of alternative available accommodation at affordable prices. This appears to be the situation in Metro Toronto today, where tenant mobility is curtailed without rent control entering the picture.

Argument Against Rent Control #5: Rent Control Leads to the Growth of a Black Market

Growth of a black market is seen as inevitable under rent control, with practices such as the demand for "key money" or payment for "fixtures and fittings" becoming common. These practices are common in New York City and London and have been reported in British Columbia. However, a black market is most likely to grow where there is both a controlled and an uncontrolled sector or where there are no curbs on evictions or non-renewal of leases. Furthermore, two factors contribute to the growth and perpetuation of this situation: lack of public awareness of the legalities of the situation and lack of adequate policing. A massive public education program combined with adequate policing would do much to militate against a black market in housing, although it is doubtful that it could be completely eradicated.

Argument Against Rent Control #6: Rent Control Is Discriminatory Against Landlords

Opponents of rent control say: In a time of overall inflation rental property owners should not be the only industry to be controlled. Furthermore, they argue landlords should not be held responsible for the welfare of their tenants; that is the purpose of the governmental income security and social service networks.

It is true that rent control is a selective mechanism, but it is untrue that rental property owning would be the only controlled industry if rent controls were introduced. Public regulation of such private industries as telephone, energy and railways has been a fact of

life in Canada for some time. And the prices of many other important items such as liquor and foods are directly set or influenced by governments.

The justification in these cases has usually been the need to protect the public from a monopoly situation. The justification for discriminating against landlords to control rents is the need to protect the public in a necessity of life that consumes the largest single portion of their income. This, of course, as noted above, is a practise that finds many existing examples in the food and energy sectors.

It is true that landlords cannot be expected to subsidize tenants' welfare. However neither should they be allowed to make exorbitant demands on the tenant, far in excess of what is needed to secure them a reasonable profit. For investors wishing to make a killing there are other, higher risk investments than rental housing.

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The discrimination argument is of course without interest  
in light of the broader federal wage and price regulations now in place.

C. Conclusion

The arguments entered in the debate around rent control as part of a resolution of the rental housing crisis can be categorized as follows: those for rent control are largely derived from welfare and social justice concerns, those against are largely dire predictions of the consequences and complaints of inefficiency and injustice. The two sets of arguments are obviously based on different assumptions, one does not answer the other. The predicted dire consequences based on apparent experience in other jurisdictions do not stand up to close scrutiny, while it is apparent that a rent control system can be devised that goes a long way towards meeting the complaints of possible inefficiency and injustice. The welfare and social justice concerns remain

paramount, and it is in the light of this that we consider the imposition of rent controls to be justified and a desirable policy option for Metro Toronto today.

SECTION FOUR: THE RENT CONTROL  
OPTIONS AND A PREFERRED PROGRAM

A. The Rent Control Options

As mentioned in the introductory section of this paper, the term "rent control" can mean many things to many people. Few except those who have wrestled with the problem directly realise how exceedingly complex the issue is, how many dimensions there are to the concept and the variety of options possible under each dimension. Which options are decided upon depends upon often unarticulated viewpoints and assumptions such as how long rent controls are expected to last, what comprises a "fair return" for landlords, how far tenants should be protected.

In order to illustrate the complexity of the problem and help clarify thinking on the subject, we set out below a series of tables showing the dimensions along which decisions have to be made, the possible choices under each, and our assessment of their desirability. These dimensions are often inter-related, and a decision on one will lead automatically to a certain position on another. It is hoped that the reader will find this format helpful in understanding the full meaning of this complex subject. (Note: These options are assessed mainly as relating to Metro Toronto, but most assessments apply to the general case also.)

Administration and Implementation

Starting with one of the simplest of the decisions to be made, there is the question of where rent controls will be enforced and what level of government will be responsible for their administration.

TABLE 5: WHERE SHOULD RENT CONTROLS BE ENFORCED?

Options	Comments	Overall Assessment
a. Province-wide	<ul style="list-style-type: none"><li>- Would encompass areas without a rental problem.</li><li>- Only way of protecting <u>all</u> tenants.</li></ul>	
b. In Municipalities above a certain population	<ul style="list-style-type: none"><li>- Catches urban areas where problem greatest.</li><li>- Allows for Municipalities to be included as they grow and presumably run into rental problems.</li></ul>	Preferred option
c. In Municipalities below certain vacancy rate	<ul style="list-style-type: none"><li>- Unstable, presumably Municipalities would be included and excluded as vacancy rate fluctuates.</li><li>- Administratively difficult.</li></ul>	Poor

TABLE 6: WHO SHOULD DECIDE WHERE RENT CONTROLS WILL BE ENFORCED?

Options	Comments	Overall Assessment
a: Province (Mandatory for all selected areas)	<ul style="list-style-type: none"><li>- Province-wide scheme.</li><li>- No allowance for any local variations.</li></ul>	
b. Municipality by taking up option	<ul style="list-style-type: none"><li>- Tenants would get protection or not depending on political composition of Council.</li><li>- Allowance for local variations.</li></ul>	Preferred option

TABLE 7: WHO SHOULD BE RESPONSIBLE FOR  
ADMINISTERING AND FINANCING RENT CONTROLS?

Options	Comments	Overall Assessment
a. Province	<ul style="list-style-type: none"> <li>- Better off financially than Municipalities.</li> <li>- Not responsive to local differences.</li> <li>- Centralized decision-making may be cumbersome.</li> </ul>	
b. Regional government	<ul style="list-style-type: none"> <li>- Avoids splintering what is in effect one market, e.g. Metro Toronto.</li> <li>- More responsive to local differences.</li> <li>- Metropolitan Toronto has experience with Landlord and Tenant Bureau.</li> </ul>	
c. Municipality	<ul style="list-style-type: none"> <li>- Most responsive to local differences.</li> <li>- Already control inspection mechanisms.</li> </ul>	
d. Combination	<ul style="list-style-type: none"> <li>- Possibly difficult to decide division of responsibilities.</li> <li>- Could provide good mixture of Provincial financial power and local ability to implement.</li> </ul>	Preferred option

TABLE 8: WHERE SHOULD RENT REVIEW BOARDS BE APPOINTED?\*

Options	Comments	Overall Assessment
a. Provincial level	<ul style="list-style-type: none"> <li>- Too removed.</li> <li>- Could get swamped under cases.</li> </ul>	Poor
b. Regional government level	<ul style="list-style-type: none"> <li>- Reasonable access to tenants.</li> <li>- Covers a broader housing market.</li> </ul>	Preferred option
c. Municipal level	<ul style="list-style-type: none"> <li>- Fairly easy access for tenants.</li> <li>- Possibly too expensive in Metro.</li> </ul>	Preferred if no reg. govt.
d. Neighbourhood level	<ul style="list-style-type: none"> <li>- Easiest access for tenants.</li> <li>- Most expensive.</li> </ul>	

\*This is inter-related with the questions of who should be responsible for administering and financing rent controls and the rent control formula to be used. Thus, if the municipality were to be responsible for administering rent control, a provincial office would be unlikely. Equally, a rent control formula that either froze rents completely or allowed across the board percentage increases without exceptions might be adequately administered by a provincial office.

Accommodation Covered: Inclusions and Exemptions

A somewhat more difficult question to be settled, if only by virtue of the number of options involved, is that of which buildings or units should be covered by any rent control scheme and which, if any, should be excluded. This is an important concern, since exclusions exist under most rent controls, but few persons are aware of the fact and its implications.

TABLE 9: WHAT RENTAL ACCOMMODATION SHOULD BE INCLUDED UNDER RENT CONTROLS?

Options	Comments	Overall Assessment
a. All rental accommodation is controlled	<ul style="list-style-type: none"><li>- Most equitable.</li><li>- Depending on rent control formula, most difficult to administer.</li><li>- Avoids problems of having a controlled and an uncontrolled sector.</li></ul>	Preferred Option
b. All buildings over a certain number of units are controlled	<ul style="list-style-type: none"><li>- Probably exempts small owners and owner-occupiers from controls, which are difficult to administer in these cases, depending on formula chosen.</li></ul>	
c. Small or non-self-contained units are exempted from controls	<ul style="list-style-type: none"><li>- Exempts class of tenants much in need of protection, roomers.</li><li>- Poor way of exempting families letting one or two rooms in their home.</li></ul>	
d. New buildings (or buildings under certain age) are exempted from controls	<ul style="list-style-type: none"><li>- Said to encourage continued investment in rental housing.</li><li>- Creates controlled and uncontrolled markets, with concomitant problems.</li><li>- Encourages construction of high-priced accommodation only.</li><li>- Widens rent gap between new and older buildings.</li></ul>	Reasonable to allow setting of a <u>first rent</u> , but should be controlled after that
e. High-priced accommodation is exempted from controls	<ul style="list-style-type: none"><li>- Encourages construction of high-priced accommodation only.</li><li>- Creates wide gap between controlled and uncontrolled markets, making controls more difficult to remove.</li><li>- Might perpetuate prior unwarranted and exorbitant price increases.</li></ul>	

TABLE 9: WHAT RENTAL ACCOMMODATION  
SHOULD BE INCLUDED UNDER RENT CONTROLS? (Cont.)

Options	Comments	Overall Assessment
f. Owner-occupied buildings are exempted	<ul style="list-style-type: none"> <li>- Definition needed - does a rental office mean owner-occupied?</li> <li>Company offices on the premises?</li> <li>- Avoids problem of trying to establish management and maintenance costs where carried out by owner, but only for occupied building.</li> <li>- Exempts family renting one or two rooms in home.</li> </ul>	Poor
g. Buildings where owner occupies more than certain proportion of space are exempted* (City of Toronto Bill proposed 25 per cent)	<ul style="list-style-type: none"> <li>- Difficult to establish proportion occupied by landlord.</li> <li>- Poor way of exempting family homes, duplexes (triplexes, quadruplexes, depending on proportion), some apartments over stores.</li> <li>- Avoids problem of trying to establish management and maintenance costs where carried out by owner only for owner-occupied buildings.</li> </ul>	Preferred option
h. Buildings belonging to owners owning less than a certain number of buildings or units are exempted	<ul style="list-style-type: none"> <li>- Difficult to establish real extent of ownership.</li> <li>- Generally exempts small owners and avoids problem of establishing management and maintenance costs where carried out by owner.</li> <li>- Exempts family homes and many rooming houses.</li> </ul>	
i. Public housing is exempted	<ul style="list-style-type: none"> <li>- Already subsidized and charges below-market rents.</li> <li>- Could result in public housing tenants paying greater proportionate increases than private tenants.</li> <li>- Rents set in entirely different way.</li> <li>- No profit to control.</li> </ul>	Preferred option
j. Non-profit housing is exempted	<ul style="list-style-type: none"> <li>- No profit to control.</li> <li>- Increases already tied to costs.</li> <li>- Below-market rents charged.</li> </ul>	Preferred option

\*This seems reasonable since it is probably administratively unfeasible to deal with the hundreds of thousands of owners who rent out part of their homes.

TABLE 9: WHAT RENTAL ACCOMMODATION  
SHOULD BE INCLUDED UNDER RENT CONTROLS? (Cont.)

Options	Comments	Overall Assessment
k. Limited dividend housing is exempted	<ul style="list-style-type: none"> <li>- Rents already controlled to some extent.</li> <li>- Might encourage continued private investment.</li> <li>- Many loopholes in present scheme.</li> <li>- Could result in limited dividend tenants paying higher proportionate increase than controlled tenants.</li> </ul>	
l. Mixed-use buildings are exempted	<ul style="list-style-type: none"> <li>- Definition needed - variety store mean mixed use? Day care centre?</li> <li>- Exempts apartments over stores.</li> <li>- Would exempt many new buildings in City of Toronto where mixed use is being encouraged.</li> </ul>	Poor
m. Furnished accommodation is exempted	<ul style="list-style-type: none"> <li>- Leaves too big a loophole in rent controls.</li> <li>- Exempts roomers badly in need of protection.</li> <li>- Poor way of exempting families renting one or two rooms in their home.</li> </ul>	Poor

The Rent Control Formula:<sup>1</sup> How allowable Increases are Calculated

The single most difficult decision when building any rent control scheme is that of which formula to use to limit rent increases. The various options and their combinations are complicated and sometimes difficult to understand. The problems presented by each require careful consideration.

Most rent control schemes try to allow the landlord some rate of return over and above his operating expenses, or in other words some level of profit. This approach has two basic problems: how to calculate the rate of return and what is allowable in the way of operating costs. We perceive three basic ways in which this rate of return can be calculated: a percentage of the market value of the building as determined on a fixed date; a percentage of the equity the landlord has invested in the building; a fixed dollar amount, usually that earned by the landlord at a set date (ties each landlord's maximum increase to actual cost increases). Equity is the actual cash a landlord has invested, that is, his original downpayment plus the amount of any mortgage principal repayments he may have made.

Another way of controlling rents focuses on the amount of rent increase allowed rather than on the rate of return allowed. Under this method a straight across-the-board percentage increase is allowed all landlords, regardless of their costs or profits. The most drastic way of controlling rents, of course, is a complete rent freeze, with no increases allowed at all. Among other things, the appropriateness of one formula as opposed to another may depend on the length of time rent controls are expected to last.

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1. Much of this discussion is taken from Less Rent More Control: A Tenants Guide to Rent Control in Massachusetts: Urban Planning Aid, Inc., Cambridge, Mass., 1973.

TABLE 10: HOW SHOULD ALLOWABLE  
RENT INCREASES BE CALCULATED

Options	Comments	Overall Assessment
a. Rent freeze - no increases	- Easy for tenants to police. - Easy administratively. - Politically difficult. - Very short term. - Unfair to non-gougers.	Poor except for very short run
b. Rents increase as costs increase. Landlord return is pegged at per cent of value of building	- Difficult for tenants to police. - Requires significant administration. - Difficulty defining and establishing value. - Must be value at same date for all buildings. - Current market value allows return on inflated values. - Market value at some base date discounts inflation in housing market. - Purchase price penalizes long-term, stable landlords.	
c. Rents Increase as costs increase. Landlord's return is pegged at per cent of equity invested in building	- Difficult for tenants to police. - Requires significant administration. - Difficulty in defining and establishing equity. - Long-term owners not allowed to benefit from increased value. - Encourages refinancing if refinancing can be passed on to tenants.	Acceptable
d. Rents Increase as costs increase. Landlord's return is pegged at per cent of base date accrued equity (calculated by subtracting outstanding mortgage from building value at fixed date and adding accrued principal payments to present)	- Difficult for tenants to police. - Requires significant administration. - Owners allowed to benefit from increased value to fixed date. - Minimizes discrimination against long-term owners. - Discourages resale. - Difficult to establish value and accrued equity at fixed date.	Preferred option for long run

TABLE 10: HOW SHOULD ALLOWABLE  
RENT INCREASES BE CALCULATED? (Cont.)

Options	Comments	Overall Assessment
e. Rents increase as costs increase. Landlord's return is pegged at fixed dollar amount	<ul style="list-style-type: none"> <li>- Difficult for tenants to police.</li> <li>- Large administration.</li> <li>- Difficulty establishing dollars earned in base year.</li> <li>- Provides no incentive for inefficient landlords to improve.</li> <li>- Reduces profit in real dollar terms.</li> </ul>	Good in short run
f. Across-the-board rent increase, no appeals	<ul style="list-style-type: none"> <li>- Easy for tenants to police.</li> <li>- Easy administratively.</li> <li>- Difficulty setting amount.</li> <li>- High allowed increase means many rents are higher than without rent control.</li> <li>- Low allowed increase means genuine loss for some landlords.</li> </ul>	Poor
g. Across-the-board maximum increase, with any case for higher increase based on proven increases in allowable costs only	<ul style="list-style-type: none"> <li>- Possible for tenants to police.</li> <li>- Minimizes administration, depending on applications for exceptions.</li> <li>- Difficulty setting amount.</li> <li>- Too high maximum means many rents higher than without rent control.</li> <li>- Too low maximum means could be swamped with applications for exceptions.</li> <li>- Good for short term if maximum increase is low.</li> </ul>	Preferred option in the short run if increase is set low

TABLE II: WHAT OPERATING COSTS SHOULD BE ALLOWED UNDER THE RENT CONTROL FORMULA?

Options	Comments	Overall Assessment
a. Maintenance and repair	<ul style="list-style-type: none"> <li>- Question of whether avoidable or not.</li> <li>- Difficult to establish cost where landlord does maintenance and repairs himself.</li> <li>- Problem of how to treat expected life of major repairs and replacements.</li> <li>- Should not include anything covered by insurance or depreciation (if allowed expenses).</li> </ul>	Preferred option
b. Administration and management	<ul style="list-style-type: none"> <li>- Difficult to establish for small owners.</li> <li>- Difficult to apportion among buildings.</li> <li>- Difficult to apportion among operating building and other company activities.</li> </ul>	Preferred option. Subject to guidelines
c. Property taxes	<ul style="list-style-type: none"> <li>- Question of whether all or only part should be passed on to tenants.</li> </ul>	Preferred option
d. Mortgage interest payments	<ul style="list-style-type: none"> <li>- Question of whether financing arrangements are operating costs.</li> </ul>	Preferred option*
e. Mortgage principal payments	<ul style="list-style-type: none"> <li>- Principal payments represent increase in equity.</li> </ul>	No
f. Depreciation	<ul style="list-style-type: none"> <li>- Difficult to see as operating cost.</li> <li>- Buildings appreciate, not depreciate.</li> </ul>	No
g. Insurance	<ul style="list-style-type: none"> <li>- Question of whether all, part or none should be passed on to tenants.</li> <li>- Can be argued not operating cost.</li> </ul>	Preferred option
h. Utility costs	<ul style="list-style-type: none"> <li>- May be difficult to apportion among buildings or units.</li> </ul>	Preferred option
i. Capital improvements	<ul style="list-style-type: none"> <li>- Can be pro-rated over expected life of improvement or added to building value or equity.</li> </ul>	Preferred option
j. Legal fees	<ul style="list-style-type: none"> <li>- May be difficult to apportion.</li> <li>- Questionable whether operating cost.</li> </ul>	Acceptable with guidelines

\*But higher interest payments created by owner-initiated refinancing should not be allowable.

Another consideration when deciding on a rent control formula is whether some provision should be made for rent decreases in the case of the accommodation falling short of certain standards.

TABLE 12: UNDER WHAT CIRCUMSTANCES  
SHOULD A RENT DECREASE BE ALLOWED?

Options	Comments	Overall Assessment
a. None	<ul style="list-style-type: none"> <li>- Easy administration.</li> <li>- Unfair to gouged tenants, partially defeating object of rent controls especially if landlords can reduce services to reduce costs.</li> </ul>	Poor
b. Poor maintenance and repairs, reduced services	<ul style="list-style-type: none"> <li>- Less rent means improvements less likely.</li> <li>- Housing standards enforcement with strict penalties might achieve object better.</li> <li>- Allowing tenant to repair and deduct from rent would achieve object without perpetuating sub-standard accommodation.</li> </ul>	Preferred option
c. Lack of promised facilities or services	<ul style="list-style-type: none"> <li>- Difficult to apportion among units.</li> <li>- Difficult to establish if not in writing.</li> </ul>	

TABLE 13: HOW SHOULD THE RENT CONTROL FORMULA BE ENFORCED?

Options	Comments	Overall Assessment
a. All landlords apply to board to have all rents set	- Administratively prohibitive.	
b. Landlords set own rents using formula	<ul style="list-style-type: none"> <li>- Administration minimized.</li> <li>- More open to violation.</li> <li>- <u>Would work if:</u> <ul style="list-style-type: none"> <li>(a) <u>landlords file annually expenses and application of rent control formula</u></li> <li>(b) <u>extensive spot checks are carried out on these returns</u></li> <li>(c) <u>checks are also made when tenants complain</u></li> </ul> </li> <li>- <u>Would not work if checks made only when tenants complain.</u></li> </ul>	Preferred option

NOTE!



### Rollbacks

The object of rent control is to protect tenants from unwarranted rent increases. It is generally agreed that some tenants are already suffering from unwarranted increases imposed in the last 12 to 24 months. One of the options in a rent control scheme is whether or not to roll back rents to protect retroactively from exorbitant rent increases.

TABLE 15: WHAT ROLL BACK PROVISIONS SHOULD A RENT CONTROL SCHEME INCLUDE?

Options	Comments	Overall Assessment
a. No rollback provision	<ul style="list-style-type: none"> <li>- Unfair to gouged tenants, partially defeating object of rent controls.</li> <li>- Easy administratively.</li> </ul>	
b. Rents to be set back to a selected date	<ul style="list-style-type: none"> <li>- Requires landlords to give rebates.</li> <li>- Easiest for tenants to police.</li> </ul>	
c. Rent control formula imposed retroactively	<ul style="list-style-type: none"> <li>- Onus on tenants to apply.</li> <li>- Difficult to police.</li> <li>- Requires landlords to give rebates.</li> </ul>	Preferred option

Many landlords are thought to have made large rent increases simply to beat rent controls, their hope being that controls would not encompass a rollback. The provincial government bears a special responsibility here since its slow response to the rental housing problem and its dragging out of the rent controls debate have undoubtedly provided this opportunity for the more unscrupulous element among all landlords. Some rollback provision or as we have suggested a retroactive ceiling seems absolutely essential.

Timing of Increases

When and how often rent increases are allowed will have some influence on the success of the scheme.

TABLE 16: WHEN SHOULD RENT INCREASES BE ALLOWED?

Options	Comments	Overall Assessment
a. Annually on some anniversary date	- All rents in building up at same time. - Ties rents to units not tenancies.	Preferred option
b. End of lease	- Leads to short leases unless controlled. - Tends to tie rents to tenancies not units.	No
c. End of tenancy	- Ties rents to tenancies not units. - Difficult to police.	No
d. When costs increase	- Difficult to administer and police.	No

Other Provisions Essential in any Rent Control Program

When writing rent control legislation the opportunity can be taken to incorporate any number of options concerning landlord and tenant relations. The desirability of a complete new look at the issues of tenants' rights and landlord-tenant relations is unquestioned,<sup>1</sup> but certain provisions are essential for a successful rent control system, and a selection of which to incorporate must be made on this basis.

TABLE 17: WHAT OTHER PROVISIONS ARE ESSENTIAL TO THE OPERATION OF A SUCCESSFUL RENT CONTROL SYSTEM?

Options	Comments	Overall Assessment
a. Curbs on evictions	- Necessary to prevent retaliation against tenants using the system and to prevent "Black market" practices.	Essential
b. Curbs on non-renewal of leases	- Necessary to prevent retaliation against tenants using the system.	Essential
c. Curbs on conversions to condominiums	- Necessary to ensure maintenance of rental housing stock. - Plugs loophole which would defeat aim of rent control.	Essential

1. For a recent assessment see: Report of the Task Force on the Status of Tenants, City of Toronto, September, 1975.

B. A Preferred Rent Control Program

From the above review of the many possible options and from our review of other proposals, analyses and rent control bills, etc., we have concluded that any rent control program for Metropolitan Toronto should contain the following features: (note that the overall structure of the rent control program could apply to any municipality, however).

- Administration by Metropolitan Toronto through boards appointed by Metro.
- All rental accommodation included except public and non-profit housing, buildings where the owner occupies more than 25 per cent of the space and new buildings which would be exempted for the initial rent only.
- Any system intended as more than an interim measure should be aimed towards the award of a "fair return" on his investment to the landlord. Such a system could use a base date accrued equity formula, with base date set before the recent upsurge in housing prices (say January 1974) and rate of return decided on examination of historical rates of return in the rental housing industry and other low risk sectors.
- Any interim system of rent control should rely on a low across-the-board maximum. We propose a ceiling of 4 per cent per annum, with the onus on the landlord to justify any higher increases to the rent review board, and higher increases allowed only when the landlord demonstrates higher costs.
- There should be no rollback, but rather a rent control formula which should be imposed retroactively. We would propose a retroactive 8 per cent per annum ceiling on increases between January 1974 and the present, with the

onus on the landlord to justify any higher increases to the rent review board, and higher increases allowed only when the landlord demonstrates higher costs.

- Mortgage principal payments, high mortgage interest rates created by owner-initiated re-financing, and depreciation should not be allowable items in calculating costs.
- The rent control formula should provide for decreases in rent in the case of poor maintenance, repairs and services.
- Any longer term enforcement of a rent control formula should require the landlord to file annual returns of expenses and application of the rent control formula. Extensive spot checks should be made on these returns and checks should be made when tenants complain.
- Landlord appeals for increases above the maximum in an interim system should be to the rent review board.
- Rent increases should only be allowed annually, on some anniversary date.
- Any rent control system must include strict curbs on evictions, non-renewal of leases and conversions to condominiums.

Additionally, we note:

- That any rent control system must carry stiff penalties for landlords attempting to violate increase formula or attempting to draw tenants into "black market, key-money" types of side payments.
- That there is no use in talking about two years of rent controls independent of resolution of the housing supply problem. Any rent control program should be implemented for the longer run, and the removal of rental controls tied to private market or governmental success in stimulating housing supply.

#### SECTION FIVE: CONCLUSIONS

Both implicit and explicit conclusions have been drawn throughout this paper, and this final brief section will pull together and reiterate our concerns both with rent controls and other relevant policies. The preferred rent control option outlined on the immediately preceding pages is repeated below as part of our conclusions.

##### A. The Needs for Rent Controls and a Preferred Rent Control Program

Information on the rental situation is scanty, often outdated and unreliable. Despite the paucity of information, however, it is apparent that rent gouging is taking place in Metropolitan Toronto and may well become even more prevalent in the face of an increasingly tight rental market situation. This situation, especially given the present context of federal anti-inflationary controls, makes rent control a very desirable policy option. The opponents of rent control have not made a convincing case that rent controls bring destruction and decay in their wake, or that a rent control system cannot be devised which is efficient and fair to landlord and tenant alike. In light of the grim Metropolitan Toronto housing situation and the lack of persuasiveness of the anti-rent control arguments, a rent control scheme incorporating the following features is suggested.

- Administration by Metropolitan Toronto through boards appointed by Metro.
- All rental accommodation included except public and non-profit housing, buildings where the owner occupies more than 25 per cent of the space and new buildings which would be exempted for the initial rent only.

- Any system intended as more than an interim measure should be aimed towards the award of a "fair return" on his/her investment to the landlord. Such a system could use a base date accrued equity formula, with base date set before the recent upsurge in housing prices (say January 1974) and rate of return decided on examination of historical rates of return in the rental housing industry and other low risk sectors.
- Any interim system of rent control should rely on a low across-the-board maximum. We propose a ceiling of 4 per cent per annum with the onus on the landlord to justify any higher increase to the rent review board, and higher increases allowed only when the landlord demonstrates higher costs.
- There should be no rollback, but rather a rent control formula which should be imposed retroactively. We would propose an 8 per cent per annum ceiling on increases between January 1974 and the present, with the onus on the landlord to justify any higher increase to the rent review board, and higher increases allowed only when the landlord demonstrates higher costs.
- Mortgage principal payments, high mortgage interest rates created by owner-initiated re-financing, and depreciation should not be allowable expenses in calculating costs.
- The rent control formula should provide for decreases in rent in the case of poor maintenance, repairs and services.
- Any longer term enforcement of a rent control formula should require landlords to file annual returns of their expenses and application of the rent control formula. Extensive spot checks should be made on these returns and checks should be made when tenants complain.
- Landlord appeals for increases above the maximum in an interim system should be to the rent review board.

- Rent increases should only be allowed annually, on some anniversary date.
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#### B. The Housing Supply

Rent control itself is not seen as a long term policy, but may become one if simultaneous efforts are not made in other directions. The Metropolitan Toronto housing situation is desperate and becoming more so because of a housing shortage which little is being done to alleviate. Stimulation of residential construction and an emphasis on low-income housing is essential. Rent controls should be with us as long as there is a severe housing shortage, and alleviation of that shortage must be achieved before rent controls are removed, and be achieved in a reasonable number of years. This task of creating the necessary housing should be one of the first concerns for government.

C. Tenants' Rights

The issue of tenants' rights also requires attention at this time. We have proposed that curbs on evictions, non-renewal of leases and conversions of rental accommodation to condominiums are essential to a successful rent control scheme. The issue of long-term security from unfair increases is a critical one, and central to any strengthening of tenants' rights. Discriminatory renting practices, standard or mandatory leases, collective bargaining, housing tribunals to remove all housing matters from the courts, are all questions to be considered in order to level the balance of power between landlord and tenant. These questions should become a focus for immediate and long-overdue reform in this area.

D. Rent Subsidies

While rent controls will ensure that most tenants will be able to afford accommodation, it will not solve the problems of all tenants. Many families are already under budgetary stress and any rent increase, no matter how reasonable, will cause real hardship. For these families a rent subsidy program is essential.

E. Publicity and Public Education

A publicity and public education program is needed in conjunction with any rent control program. Public goodwill and willingness to make the system work depends on a thorough understanding by everyone concerned of their rights and obligations. Efficient and extensive dissemination of information, especially to those sectors which may be thought of as hard to reach is an important component of the success of rent controls.

In any system, the tenant must play a major role in enforce-

ment, such that information on the program, rights, etc., must be made available to tenants. We suspect that tenants' associations and tenants' rights organizations represent tremendous potential for best information-giving on a dollar-for-dollar basis. This factor, taken with their broad role of supports to tenants, suggests that tenants' organizations represent a good existing community infrastructure to encourage good observation of rent control regulations. Tenants' organizations, therefore, should be eligible for financial aid through purchase-of-service arrangements or grants as part of any rent control legislation.

#### F. Information Needs and Policy Planning

Rent controls are complicated to design and administer and good information would seem to be essential for each of these jobs. We have noted in our discussion of rents in the first parts of the paper, that almost no reliable information exists as to how rents have been changing over the past two years. Thus it is difficult to design the fine points of any program as they relate to tenant needs. Information is also sparse as to cost increases landlords have been facing. A program that treats landlords fairly and which makes good tradeoffs between coverage and administrative costs must be based on good information on costs.

Such information is obtained at relatively little cost, when compared to overall program costs, and any program of rent controls implemented should provide adequate funding for in-depth and methodologically rigorous studies of these important issues, so that the information feed-back can be an ongoing component of the rent review mechanism.

#### G. Housing as a Social Good

The failure of the private housing market to provide adequate housing for Canadians in recent years raises major questions as to how

housing should be treated in Canada. Is housing like any good in a quasi-capitalistic economy? Or must it be treated very differently because of its importance in social welfare?

Many will suggest that government program efforts designed to deal with the critical issue -- housing shortage -- should emphasise the stimulation of the private housing industry. Planning hindrances should be eliminated, they will say, incentives planned. And so on.

Another perspective says that the failure in recent years of the private housing market only underlines the need for much more direct governmental intervention. Can fix-up efforts make the private housing industry healthy? Can fix-up efforts make the badly bruised private rental market work?

In our view, setting the rent control debate aside, implementing an equitable system of rent controls simply sets the stage for this much more difficult debate.

## APPENDIX: RENT CONTROL IN OTHER JURISDICTIONS

In a paper this size it is impossible to encompass a comprehensive review of rent control in other jurisdictions. The following section, therefore, presents a very brief summary of the nature and experience of rent controls in selected jurisdictions. These particular jurisdictions were selected for two reasons: their relevance to Toronto and the availability of material. Rent control is or has been in force in a large number of European countries including France, Denmark, Sweden, Norway, and Italy, but little material is available on these cases.

### (A) Canada

#### Quebec

Rent controls have been in effect in Quebec for nearly 35 years, although it is only within the last few years that they have been expanded to include most rental units in all parts of the province. Until recently also the legislation was renewable each year, causing a state of uncertainty in the market. The major exclusions from Quebec's rent control legislation are new dwellings started after 31 December 1973, which are exempted for five years after completion, and public housing.

The rent control legislation is administered by a Rent Review Commission under the Minister of Justice. As well as rent increases the Commission deals with decreases for lack of repair and maintenance evictions and lease terminations. The tenant must initiate the request for a hearing. If no reconciliation is effected, a decision is imposed. A formula, which takes account of increases in costs, is provided for calculating allowable rent increases, but the rental administrator is not obliged to use it. The formula is such that it cannot be applied to new buildings (were they not exempt for five years) and it cannot be used to calculate rent reductions for deterioration of services and repairs.

Probably as a result of the need for tenant initiation and the year-to-year uncertainty as to the continuation of rent controls, to date only a small proportion of rents have been set under this system, although hearings are expected to triple this year over their 1974 number.<sup>1</sup> The uncertainty as to whether the formula will be used to fix rent in any particular case is said to discourage major repairs. The system results in an unequal distribution of rents for similar units both among buildings and within the same building.<sup>2</sup>

#### British Columbia

British Columbia introduced rent control in 1974, during which year a maximum rent increase of 8 per cent was imposed. The maximum increase for 1975 was set at 10.6 per cent. The rent control legislation covers the whole province, but excludes units first rented after 1 January 1974 (exempt for 5 years), units renting for \$500 per month or more, non-profit and public housing and resident-owned duplexes. If a landlord tries to raise rent beyond the maximum allowable increase, the tenant can complain to the Rent Review Commission, which decides whether the extra increase is justified or not. The system is administered by the Province, under the Department of the Attorney General.

Rent control in British Columbia has been in operation for too short a period to conclude what its effects are. Although it has been blamed for a stand-still in new construction and for the growth of a black market, it is difficult to assess the long-term validity of these claims. The maximum increase formula has been said to result in larger increases in some cases than would have been levied without rent control. A task force has been struck to look at more flexible

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1. "Rent Controls: Quebec Tenants Besiege Provincial Rental Board", Toronto Star, June 11, 1975.
  2. Unpublished paper, Ontario Ministry of Housing, 1975.

alternatives to the present system, and new legislation is expected for next year.

(B) United States

New York City

Two forms of rent regulation are in operation in New York City, both administered by the City under State enabling legislation. The older system has been in operation since 1943, with various changes. It now covers all buildings rented prior to 1 February 1947, except those that were decontrolled under certain provisions. Prior to 1972, permission to increase rents was obtained from the Office of Rent Control in cases of new leases, increased services or facilities, major capital improvements or landlord hardship. In 1972 a cost-based formula allowing an 8½ per cent return on capital was introduced.

The second system, called rent stabilization, was introduced in 1969 and covers buildings of six or more units first occupied between 1 February 1947 and 1 February 1974 and units decontrolled under one of the decontrol provisions. This provides for across-the-board increases based on costs established by surveys performed by the Bureau of Labour Statistics. It also allows rent increases in cases of increased services or facilities, major capital improvements and landlord hardship.

New York City is the example to which all opponents of rent control point as the dire example of what the application of rent controls will do to a city. Undoubtedly New York is a city with an unenviable housing situation and huge housing problems. However it is difficult to sort out the contribution of rent control from other factors in this situation, and too facile to attribute all the evils of New York's housing to rent control. The problem is compounded by the fact that until rent stabilization was introduced in 1969 New York's rent-controlled

buildings were its oldest buildings, with the problems of increased maintenance and more difficult financing that age brings. Furthermore many of the oldest buildings belonged to landlords least able to cope with the problems, the small, non-professional property owner.<sup>1</sup>

While rent control, and particularly the form of rent control practised in New York, is undoubtedly a factor in some of New York's housing problems, the weight to be given this component is difficult to determine. When institutional lenders were questioned on reasons for not extending financing, emphasis was put on the age and location of the structure, rather than on rent control.<sup>2</sup> Similarly, area and future evaluation of rent revenue exerted nearly equivalent pressures to produce negative attitudes in owners of both controlled and non-controlled property in slum areas.<sup>3</sup> Rent control was also found not to explain the problem of non-payment of property taxes (often leading to abandonment) and was far from the dominant cause given by owners for this phenomenon.<sup>4</sup> Others have pointed out that New York experienced tremendous overbuilding of rental housing in the 1960's, even though rent controls were in effect at the time.

#### Massachusetts

State legislation enabling municipalities to establish rent control was passed in 1970. Various municipalities, including Boston, Cambridge and Brookline have taken advantage of the enabling law. Exempted from rent control are units completed after 1 January 1969,

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1. George Sternlieb, The Urban Housing Dilemma: City of New York, Housing and Development Administration, Department of Rent and Housing Maintenance, Office of Rent Control, New York, 1972, pp. 452-503.
  2. Ibid, pp. 396-411.
  3. Ibid, pp. 224-232.
  4. Ibid, pp. 427 and 449.
  5. Mark Ricketts, Rent Controls: How Well Do They Really Work? Financial Post, August 30, 1975

public and non-profit housing, owner-occupied two and three-family houses and co-operatives. Once rent control is adopted, rents are rolled back to their level six months prior to adoption. Adjustments to this rent can only be made with permission from the rent control office and may be a general adjustment or an individual adjustment. Landlords, tenants and the rent control office itself can initiate hearings for individual adjustments. Evictions are only allowed for specified reasons.

The formula used for setting rent increases varies with the municipality, but is designed to assure the landlord a "fair net operating income". This means that operating costs, facilities and services and capital improvements are taken into account in the formula. New buildings did not decline in the controlled areas following the introduction of rent control. The issue of building permits for repairs has increased since rent control, although this may be attributable to the administrative procedures under rent control rather than an increase in repairs.<sup>1</sup>

(C) Great Britain

Some form of rent control has been enforced in Britain since 1915. In 1965 a new Rent Act was passed to replace the previous rigid rent control. Not all formerly controlled units were brought under the new Act immediately, but by 1975 all eligible units will have been phased in. The major exceptions to the new fair rent regulation legislation are furnished units and units above a certain assessment value: public housing is included.

Under the British system rents are frozen at their level at the time of enactment, and thereafter either a landlord or a tenant who

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1. Unpublished paper, Ontario Ministry of Housing, 1975.

cannot reach agreement on rent can apply to have a "fair rent" established. "Fair rents" are also fixed as units controlled under the old act are brought under the new. The rent established is then in force for three years, unless a change of circumstances or special grounds allow an alteration.

The legislation itself nowhere defines a "fair rent", but merely gives some very general guidelines. The definition is left to the rent officers appointed by the borough or county council. Appeals of the rent officer's decision can be made to a rent assessment committee in each area. The rent regulation measures are coupled with rent subsidies for the needy. There is nothing in the legislation to ensure repairs and maintenance.

Most evaluations of the British housing situation focus on London, with little appearing on the situation in the rest of the country. According to Mandelker, ignorance of their rights and fear of the consequences have been two factors inhibiting tenants from asking for fair rents to be established. Those who have approached rent officers have shown as much concern for the standard of accommodation as for the level of rent operative.<sup>1</sup> London suffers from a badly deteriorated housing stock, and withdrawal of private builders (although not of public builders) and of a number of units (many of them standing empty) from the rental market. As in the case with New York, however, the degree to which these phenomena can be attributed to rent control and which form of rent control, has not been established. Especially since rent controls apply to nearly all rental housing in Great Britain, and since London alone is singled out as negatively affected by rent controls. It seems more plausible to attribute these problems to a more generalized urban decay process experienced by London as one of the world's largest and oldest cities.

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1. Daniel R. Mandelker, Housing Subsidies in the U.S. and England, The Bobbs Merrill Company Inc., New York, 1973.

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